

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

RAFAEL M. FERMAN,	)	
	)	
Movant,	)	
	)	Case No. 06-0442-CV-W-DW-P
v.	)	Crim. No. 04-00327-02-CR-W-DW
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**ORDER**

Before the Court is Movant Rafael M. Ferman’s motion for post-conviction relief under 28 U.S.C. § 2255 (Doc. 1). Ferman alleges ineffective assistance of counsel in that his lawyer misrepresented the consequences of his guilty plea, and failed to seek several different downward departures or variances. However, as part of his plea agreement with the government, Ferman waived his right to appeal his conviction either directly or collaterally. See United States v. Andis, 333 F.3d 886, 891-92 (8th Cir. 2003). He does not argue that the appeal waiver is unenforceable because of ineffective assistance. See Chesney v. United States, 367 F.3d 1055, 1058 (8th Cir. 2004). And he does not allege that his sentence is otherwise “illegal.”

The Court concludes that Ferman has not made a substantial showing of the denial of a constitutional right such that the issues presented are debatable among jurists of reason. See Randolph v. Kemna, 276 F.3d 401, 403 n.1 (8th Cir. 2002); 28 U.S.C. § 2253(c)(2). Therefore, the Court denies a certificate of appealability.

It is hereby

ORDERED that Ferman’s section 2255 motion (Doc. 1) is DENIED. Further, the Court

DECLINES to issue a certificate of appealability on any of the claims raised in the motion.

SO ORDERED.

/s/ DEAN WHIPPLE  
Dean Whipple  
United States District Judge

Date: August 29, 2006